

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

MELISSA ANN CALLAHAN,

Plaintiff,

v.

CIVIL ACTION NO. 1:22CV113
(KLEEH)

KILOLO KIJAKAZI,
Commissioner of Social Security,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 26] AND
AMENDED REPORT AND RECOMMENDATION [ECF NO. 27]

On November 8, 2022, the plaintiff, Melissa Callahan ("Callahan"), filed a complaint seeking review of an adverse decision of the Commissioner of Social Security ("the Commissioner") [Dkt. No. 1]. After the parties filed cross motions for summary judgment, Magistrate Judge James P. Mazzone entered an Report and Recommendation ("R&R") [ECF No. 26] recommending that the Court deny Callahan's motion for summary judgment [ECF No. 23], and grant the Commissioner's motion for summary judgment [ECF No. 24]. Shortly thereafter, the magistrate judge amended the R&R to correct docket numbers in the "recommendation" section [ECF No. 27].

The R&R also informed the parties regarding their right to file specific written objections to the magistrate judge's report and recommendation. The magistrate judge gave the parties fourteen

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(14) calendar days after being served with a copy of the magistrate judge's recommended disposition to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." The R&R further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals."

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarciprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Callahan accepted service of the R&R and Amended R&R on June 27, 2023, and June 29, 2023, respectively [ECF Nos. 28, 29]. To date, neither party has objected. The Court is therefore under no obligation to conduct a de novo review and has reviewed the R&R and Amended R&R for clear error. Finding none, it:

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1. **ADOPTS** the R&R [ECF No. 26] and Amended R&R [ECF No. 27];
2. **DENIES** Callahan's motion for summary judgment [ECF No. 23];
3. **GRANTS** the Commissioner's motion for summary judgment [ECF No. 24]; and
4. **DISMISSES WITH PREJUDICE** this civil action.

It is so **ORDERED**.

The Clerk shall enter a separate judgment order in favor of the commissioner and transmit copies of this Order to counsel of record by electronic means and to the pro se plaintiff by certified mail, return receipt requested.

DATED: July 21, 2023



THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA